

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Verizon California Inc.,

Complainant.

vs.

Pac-West Telecomm, Inc.,

Defendant.

Case 01-10-036
(Filed October 15, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING ADDRESSING PENDING
REQUESTS AND SCHEDULING A TELEPHONIC CONFERENCE**

Procedural Background

On August 3, 2001, Pac-West moved for an Administrative Law Judge (ALJ) ruling prohibiting Verizon California Inc. from unilaterally implementing new rates established by the Federal Communications Commission (FCC) for delivery of Internet-bound telephone traffic. Pac-West sought the ruling under the Dispute Resolution Procedure set forth in its interconnection agreement with Verizon. The Dispute Resolution Procedure provides for appeal to the Commission of the ALJ ruling through the filing of a formal complaint.

On September 27, 2001, the assigned ALJ granted Pac-West's motion, and ruled that Verizon should be prohibited from implementing the new FCC rates given the absence of an amendment to its interconnection agreement with Pac-West. Verizon appealed the ruling by filing the above-captioned complaint.

Verizon asks the Commission to resolve the matter on the basis of the parties' written submissions and oral argument. Consistent with the swift and focused intent of the Dispute Resolution Procedure established under Decision (D.) 95-12-056, Verizon urges that participation in the complaint proceeding be limited to the immediate parties and take place on an expedited schedule, addressing only the narrow issues specific to the dispute. It proposes a schedule contemplating submission of a reply, oral argument before the full Commission and a Commission decision by November 29.

Discussion

As noted by both parties and the initial assigned ALJ, this is the first case appearing under the expedited dispute process set forth in D.95-12-056. Developed before the issuance of the Federal Telecommunications Act of 1996, the Commission created the process in order to provide parties with a prompt and specific solution to disputes arising out of their interconnection agreements. Disputing parties are required to try initially to resolve the matter informally at an executive level. If that fails, a party may file a motion seeking mediation before an ALJ. If mediation fails, an ALJ then directs the parties to file pleadings and rules on the dispute. If either party disagrees with the ruling, the party may contest the ruling by filing a formal complaint with the Commission.

In this proceeding, the parties waived mediation and asked the ALJ to rule on the dispute based on the pleadings. Verizon originally submitted this complaint on October 15, 2001. At the direction of the Commission's Docket Office, Verizon submitted a replacement title page for its complaint on October 26, 2001. On November 1, 2001, the Docket Office advised both parties of the proceeding number assigned to the case. Pac-West filed its response on November 9, 2001. On November 12, 2001, by electronic- mail (email), counsel

for Verizon renewed his request for leave to file a reply brief to Pac-West's response. Verizon notes that Pac-West urges a ruling on the contested issue without further briefing or oral argument, and asks to provide a "full briefing to the various legal issues" that it maintains Pac-West raised for the first time in its Answer. Today, both parties exchanged pointed e-mails renewing their arguments.

While it is true that this case is the first matter to be heard under the hybrid complaint structure of the Dispute Resolution Procedure of D.95-12-056, it does not follow that the case will go forward under an assortment of procedural rules. The Commission intended this Procedure to be a tool to promptly resolve interconnection disputes. Thus, the path to expedited dispute resolution is streamlined in order to facilitate a swift decision. Under the Commission's Rules of Practice and Procedure, the regular complaint process may extend to parties the opportunity for more than two rounds of pleadings over the course of twelve months. That is not possible under this Procedure.

Thus, we shall proceed as follows. I will not entertain any additional rounds of pleadings. Consistent with the expedited and regular complaint process, there will not be an opportunity for oral argument before the full Commission. I will schedule one hour for Verizon and Pac-West to present oral arguments. I will be in attendance, and a Commission Reporter will transcribe the arguments. There will be no further briefing.

I will convene a telephonic conference with Verizon and Pac-West on November 19, 2001 at 1:30 p.m. to arrange the date and time for oral arguments. If the date and time of the telephonic conference poses a scheduling difficulty for either party, contact me by telephone so that we may rearrange the conference.

Finally, I expect the parties to refrain from any further e-mail litigation and reserve the remainder of their contentions for the prospective hearing.

Accordingly, **IT IS RULED** that:

1. Verizon California Inc. (Verizon)'s request for leave to file a reply brief is denied.
2. Verizon's request to present oral argument in this proceeding before the full Commission is denied.
3. Verizon's request to limit participation in this complaint proceeding to the immediate parties is granted.
4. The undersigned Administrative Law Judge (ALJ) shall convene a telephonic conference with Verizon and Pac-West Telecomm, Inc. (Pac-West) on November 19, 2001 at 1:30 p.m. to arrange the date and time for oral arguments in this matter.
5. Verizon and Pac-West shall notify the undersigned ALJ if the date and time of the telephonic conference poses a scheduling difficulty for either party.

Dated November 13, 2001, at San Francisco, California.

/s/ Jacqueline A. Reed

Jacqueline A. Reed
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Addressing Pending Requests and Scheduling a Telephonic Conference on all parties of record in this proceeding or their attorneys of record.

Dated November 13, 2001, at San Francisco, California.

/s/ Antonina V. swansen
Antonina V. Swansen

N O T I C E

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